

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC	§	Civil Action No. 6:12-CV-499 MHS
<i>Plaintiff,</i>	§	
	§	LEAD CASE
v.	§	
	§	
TEXAS INSTRUMENTS, INC.	§	
<i>Defendants</i>	§	

BLUE SPIKE, LLC,	§	Civil Action No. 6:12-CV-576 MHS
<i>Plaintiff,</i>	§	
v.	§	CONSOLIDATED CASE
AUDIBLE MAGIC CORPORATION,	§	
FACEBOOK, INC., MYSPACE, LLC,	§	
SPECIFIC MEDIA, LLC,	§	
PHOTOBUCKET.COM, INC.,	§	
DAILYMOTION, INC.,	§	
DAILYMOTION S.A., SOUNDCLOUD,	§	
INC., SOUNDCLOUD LTD., MYXER,	§	
INC., QLIPSO, INC., QLIPSO MEDIA	§	
NETWORKS LTD., YAP.TV, INC.,	§	
GOMISO, INC., IMESH, INC.,	§	
METACAFE, INC., BOODABEE	§	
TECHNOLOGIES, INC., TUNECORE,	§	
INC., ZEDGE HOLDINGS, INC.,	§	
BRIGHTCOVE INC.,	§	
COINCIDENT.TV, INC., ACCEDO	§	
BROADBAND NORTH AMERICA,	§	
INC., ACCEDO BROADBAND AB,	§	
AND MEDIAFIRE, LLC	§	
<i>Defendants.</i>	§	

**DECLARATION OF CHRISTOPHER HIGGINS IN SUPPORT OF AUDIBLE MAGIC'S
MOTION TO STRIKE BLUE SPIKE'S INFRINGEMENT CONTENTIONS**

I, Christopher Higgins, declare under penalty of perjury that the following is true and correct:

1. I am an attorney at the law firm Orrick, Herrington & Sutcliffe, LLP, counsel of record for defendants Audible Magic Corp. ("Audible Magic") and a number of its

customers accused as defendants in this case on the basis of Audible Magic's technology. I have personal knowledge of the facts set forth in this declaration, or access to information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts of Blue Spike's February 26, 2014 Disclosure of Asserted Claims and Infringement Contentions ("Infringement Contentions").

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts of the claim chart for the '175 patent from Exhibit A of Blue Spike's Infringement Contentions.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts of the claim chart for the '472 patent from Exhibit A of Blue Spike's Infringement Contentions.

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts of the claim chart for the '494 patent from Exhibit A of Blue Spike's Infringement Contentions.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts of the claim chart for the '700 patent from Exhibit A of Blue Spike's Infringement Contentions.

7. Attached hereto as **Exhibit 6** is a true and correct copy of Exhibits 1-6 of from Exhibit A of Blue Spike's Infringement Contentions

8. Attached hereto as **Exhibit 7** is a true and correct copy of an email exchange between counsel for Audible Magic and counsel for Blue Spike dated between March 14, 2014 and April 5, 2014 (highlighted at cited portions).

9. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts of the claim chart for the '175 patent from Exhibit A of Blue Spike's Proposed Amended Infringement Contentions provided to Audible Magic on April 9, 2014.

10. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts of the

claim chart for the '472 patent from Exhibit A of Blue Spike's Proposed Amended Infringement Contentions provided to Audible Magic on April 9, 2014.

11. Attached hereto as **Exhibit 10** is a true and correct copy of excerpts of the claim chart for the '494 patent from Exhibit A of Blue Spike's Proposed Amended Infringement Contentions provided to Audible Magic on April 9, 2014.

12. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts of the claim chart for the '700 patent from Exhibit A of Blue Spike's Proposed Amended Infringement Contentions provided to Audible Magic on April 9, 2014.

13. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts of the claim chart for the '175 patent from Exhibit A of Blue Spike's Proposed Amended Infringement Contentions provided to Audible Magic on April 9, 2014.

14. Attached hereto as **Exhibit 13** is a true and correct copy of an email dated April 9, 2014 from Peter Brasher to counsel for Audible Magic (highlighted at cited portions).

15. Attached hereto as **Exhibit 14** are true and correct copies of excerpts from Exhibits 2, 3, 9, 10, 11, 12, 13 of Blue Spike's Proposed Amended Infringement Contentions showing a date of April 1, 2014.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on April 21, 2014 in Washington, District of Columbia.



Christopher Higgins